

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BARBARA E. VARNER, . . . Plaintiff, . . . CIVIL ACTION
vs. . . . NO. 1:CV 01-0725
COMMONWEALTH OF PENNSYLVANIA, . . . (JUDGE YVETTE KANE)
NINTH JUDICIAL DISTRICT, . . .
CUMBERLAND COUNTY; CUMBERLAND . . .
COUNTY; S. GARETH GRAHAM, . . .
individually, and JOSEPH . . .
OSENKARSKI, individually, . . .
Defendants. . . .

VOLUME 1
Pages 1 to 228

Deposition of: BARBARA E. VARNER

Taken by : Defendant Cumberland County

Date : January 27, 2003, 9:35 a.m.

Before : Emily Clark, RMR, Reporter-Notary

Place : Administrative Offices of
Pennsylvania Courts
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania

APPEARANCES:

DEBRA K. WALLET, ESQUIRE
For - Plaintiff

ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS
BY: A. TAYLOR WILLIAMS, ESQUIRE
For - Defendant Commonwealth of Pennsylvania
Ninth Judicial District, Cumberland County

THOMAS, THOMAS & HAVER
BY: JAMES K. THOMAS, II, ESQUIRE
PAUL J. DELLASEGNA, ESQUIRE
For - Defendant Cumberland County

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1 APPEARANCES (continued):

2 MONTGOMERY, McCracken, WALKER & RHOADS, LLP
BY: DAVID J. MacMAIN, ESQUIRE
3 For - Defendant S. Gareth Graham

4 SWEENEY & SHEEHAN, P.C.
BY: PAUL LANCASTER ADAMS, ESQUIRE
5 For - Defendant Joseph L. Osenkarski

6

7 ALSO PRESENT:

8 MR. LEE VARNER

9 MR. S. GARETH GRAHAM

10 MR. JOSEPH L. OSENKARSKI

11 MS. MELANIE McDONOUGH

12 MR. PETER ZANGARDI

13 MS. PAT LANE

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WITNESS

3 Barbara E. Varner

Examination

4 By Mr. Thomas

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EXHIBITS

7

Varner Deposition

8 Exhibit Number

Page

9 1 4-page memo, 4/25/97, to Hartnett from
Varner, annotated

191

10 2 1-page memo, 6/13/97, to Varner from Osenkarski

192

11 3 4 pages: 1-page memo, 7/17/97, to Ward and
Deluce from Sheely; 3-page memo, 7/11/97, to
Ward and Deluce from Sheely

194

12 4 1-page handwritten note, 7/21/97, "Dear
Jo Ann"

196

13 15 5 10-page EEOC Complaint

197

16

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1 STIPULATION

2 It is hereby stipulated by and between the
3 respective parties that signing, sealing, certification
4 and filing are waived; and that all objections except as
5 to the form of the question are reserved until the time
6 of trial.

7

8 BARBARA E. VARNER, called as a witness, being duly
9 sworn, was examined and testified, as follows:

10 BY MR. THOMAS:

11 Q Will you state your full name for the record, please?

12 A. Barbara Eileen Varner.

13 Q And where do you presently reside, Barbara?

14 A. I live at 5 Maple Drive in Etters, Pennsylvania.

15 Q You understand you're here today for us to take your
16 sworn testimony in a case which you've instituted
17 against the Cumberland County Court, Cumberland County
18 and certain individuals? You understand that?

19 A. Yes, I do.

20 Q Is there any reason today that you could not understand
21 and answer questions completely?

22 A. No.

23 Q Are you on any type of medication that would affect your
24 ability to comprehend the questions that are asked today
25 and answer fully and completely?

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1 A. No.

2 Q If you answer a question today, I'm going to assume that
3 you've both heard and understood the question. Is that
4 fair?

5 A. Yes.

6 Q How about a date of birth on you, Barb?

7 A. 1/18/49.

8 Q You and I have met in the past; is that correct?

9 A. That's correct.

10 Q And we met and discussed some of the allegations that
11 are part of this litigation, correct?

12 A. Correct.

13 Q At that time you agreed with me that if you had had a
14 voluntary affair with Mr. Graham, that there would be no
15 base for this lawsuit. Do you recall that conversation?

16 A. But that's not exactly true. If this affair interfered
17 with any kind of work behavior or -- either positive or
18 negative, then it would absolutely be a case. It's
19 still a violation of Title 7.

20 Q Well, let me ask you the question directly. Did you
21 have a consensual sexual affair with Mr. Graham?

22 A. I did not.

23 Q If you had such an affair with Mr. Graham, would there
24 be any validity to your claim here?

25 A. If it had not interfered with my work environment, my

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1 job, then I would say no.

2 Q Meaning that even if you had an affair with Mr. Graham,
3 it would be a valid cause of action?

4 A. In any situation, work environment, if at any time a
5 relationship between two people interferes with that job
6 or the environment of the employment, it is a problem.

7 Q Did you previously degree in our last meeting that if
8 such an affair existed, that there would be no validity
9 to this litigation?

10 A. I don't think I completely answered that, because if it
11 interferes with your work environment in any way, shape
12 or form, then it is a problem.

13 Q I'm not sure I understand your answer exactly. You say
14 that there was no such affair, correct?

15 A. That's correct.

16 Q And if I recall our previous conversation correctly, you
17 agreed unequivocally that if such an affair had existed,
18 then there would be no merit in this litigation. Are
19 you changing your mind in that regard?

20 A. If it did not interfere in the work environment at all,
21 I don't think it's a problem. Morally it is wrong, but
22 I don't think if it did not interfere with the work
23 environment, cause a hostile environment, positive or
24 negative for myself, then there would not be an issue.

25 Q Well, how would the affair, a consensual affair not

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1 interfere in your interpersonal relationships in the
2 work environment?

3 A. I think there are people that can probably keep things
4 separate. Perhaps they're not in the same department,
5 perhaps they're not in a supervisory or employee
6 position. I don't know that.

7 Q Have you ever had occasion to have an extramarital
8 affair of any kind?

9 A. No, I didn't.

10 Q And this is your second marriage; is that correct?

11 A. Yes, it is.

12 Q Did you have any extramarital affairs in your first
13 marriage?

14 A. I did not.

15 Q Have you ever had occasion to kiss Mr. Graham?

16 A. I did not.

17 Q Have you ever had any type of intimate physical
18 relationship with Mr. Graham of any type?

19 A. No.

20 Q You've had no intercourse with him?

21 A. No.

22 Q No oral sex with him?

23 A. Absolutely not.

24 Q And no anal sex with him?

25 A. Absolutely not.

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1 Q Have you ever held hands with Mr. Graham?

2 A. I have not.

3 Q Has Mr. Graham ever been inside your residence at Maple
4 Drive?

5 A. Yes, he has.

6 Q Can you tell me when?

7 A. I had started working for Juvenile Probation. There was
8 a time that he picked me up to go to York, I believe to
9 pick up a kid from detention. I was getting ready. My
10 husband was in the house, he was in the shower.
11 Mr. Graham came with the county car to pick me up. Came
12 in, asked to use the telephone, had a cup of coffee, I
13 believe. And we left from there to pick up the kid to
14 transport him to court.

15 Q And this was Maple Drive?

16 A. Yes, it was.

17 Q I want to explore that in a little detail.

18 A. Okay.

19 Q Do you remember when that was?

20 A. It had to be in 1995 to '96.

21 Q Refresh my recollection as to when you started with
22 Juvenile Probation.

23 A. February 7th, 1995.

24 Q Is that how you placed the date, because it was within a
25 year of when you commenced?

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1 A. Yes.

2 Q And he was picking you up and you were going to
3 transport a juvenile?

4 A. We were to pick up a juvenile at York Detention Center.
5 I live halfway between Harrisburg and York, so it was
6 convenient for him to pick me up.

7 We took the kid to court, returned him to the
8 detention center.

9 Q Where exactly is your residence at Maple Drive? Give me
10 directions on how you get there.

11 A. South 83, off the Yocomtown exit. And it's
12 approximately a mile and a half from the exit.

13 Q On this particular occasion Mr. Graham came to the house
14 to pick you up, correct?

15 A. That's correct.

16 Q And did you invite him in?

17 A. He knocked on the door and he asked if he could use the
18 phone to make a personal phone call.

19 Q What was the nature of your relationship with Mr. Graham
20 at this time in '95 or '96?

21 A. He was a supervisor. He was assigned, not officially,
22 but he was to train me.

23 Q Were you on good terms?

24 A. Yes.

25 Q Did you consider him a personal friend?

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1 A. Not a personal friend. A colleague.

2 Q So he comes to the door, knocks on the door. Do you
3 respond to the door, answer the door?

4 A. Yes, certainly.

5 Q You knew he was coming to pick you up?

6 A. Yes, I did.

7 Q Were you prepared to leave the house? Did you have your
8 coat on?

9 A. Yes. Well, yes. Yes, I did.

10 Q What did he say to you?

11 A. He said could I use the phone.

12 Q So he entered through what I guess was some type of
13 foyer?

14 A. No. It would be the garage door. Most of the time we
15 come in through the garage door, come in the garage.

16 Q Was this the first time he was ever at your house?

17 A. Yes.

18 Q And he came to the garage door to summon you?

19 A. Right, that's correct.

20 Q He didn't come to the front door of the house?

21 A. No.

22 Q What type of house is this?

23 A. We have a bi-level.

24 Q Bi-level?

25 A. Um-hum.

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1 Q So he comes, he raps on the door, you answer the door,
2 he asks to come in. When he steps inside the house from
3 the garage, what part of the house does he enter?

4 A. We have a large dining room, living room, kitchen all
5 one, pretty much one area.

6 Q Would this be the second floor of the house --

7 A. Yes.

8 Q -- if it's a bi-level?

9 A. Yes, it is.

10 Q So you would step up two or three steps to enter that
11 level?

12 A. You come up from the garage and you're right in level,
13 you're on level with the dining room.

14 Q Okay. So he entered from the garage into this sort of
15 combination living room/dining room?

16 A. Right, um-hum.

17 Q Where was your phone located?

18 A. In the kitchen, right within maybe 15 feet of the door.

19 Q So he entered through the garage door, went to the
20 kitchen?

21 A. Correct.

22 Q Used the phone?

23 A. Right.

24 Q Was he in any other part of the house?

25 A. I went in to talk to my husband and he said -- he was

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1 asking me, this is a nice place, very large. And I
2 said, well, help yourself, look around. I believe he
3 went down to the basement, I can't say for sure. When I
4 came out, I was ready to go.

5 Q He was on the phone. Did you leave the kitchen area
6 when he was on the phone?

7 A. Yes, I did. Yes, I did.

8 Q And you went where?

9 A. Back the hallway to my bedroom, my husband and my
10 bedroom, in the back.

11 Q To what, say good-bye to him?

12 A. Yes, that I was leaving.

13 Q What conversation did you have with your husband?

14 A. That I was leaving, basically I was leaving and I would
15 see him that evening.

16 Q Was that the extent of it?

17 A. Pretty much, yes.

18 Q You then turned around, left the bedroom area and came
19 back to the kitchen?

20 A. That's correct.

21 Q Where was Mr. Graham when you came back?

22 A. He was standing, I don't know, living room. Like I
23 said, it was a combination living room/bedroom area -- I
24 mean living room/dining room area.

25 Q How long were you gone from the kitchen?

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1 A. Oh, it was not very long. Several minutes.

2 Q When you came back he was still in the same general
3 area?

4 A. Yes.

5 Q Any conversation with him about any other portion of the
6 house?

7 A. No.

8 Q Did he enter the master bedroom?

9 A. No.

10 Q Did he ever tell you that he had been downstairs?

11 A. No.

12 Q Were there any other occasions when he was in the
13 basement of your residence at Maple Drive?

14 A. No.

15 Q Was this the only occasion on which you're aware that he
16 was ever physically inside your house?

17 A. Yes.

18 Q And as far as you're aware, that visit was limited to
19 the combination kitchen/dining room/entry area?

20 A. Yes.

21 Q Have you ever lived anywhere else other than Maple
22 Drive.

23 A. Yes, I have.

24 Q Where else?

25 A. I lived on Weatherburn Drive in New Cumberland.

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1 Q Who did you live there with?

2 A. My husband Lee. My son lived there briefly. And my
3 daughter also had a room. She was in college and she
4 would come home.

5 Q She was in college at West Chester?

6 A. Yes.

7 Q When was that, Mrs. Varner?

8 A. 1990.

9 Q For just one year?

10 A. Approximately a year and a half we lived there.

11 Q How about the residence before that?

12 A. I lived at Apple Drive in Mechanicsburg.

13 Q Was that with your first husband?

14 A. Yes, it is. Was.

15 Q For the record, what was his name?

16 A. Kenneth Spidle, S-P-I-D-L-E, Jr.

17 Q Has Mr. Graham ever seen you naked?

18 A. No.

19 Q Do you have a small scar at the base of your spine?

20 A. No.

21 Q Have you ever had any back surgery?

22 A. No.

23 Q Have you ever told anybody that you have a double nipple
24 on your right breast?

25 A. No.

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1 Q Do you, in fact, have a double nipple on your right
2 breast?

3 A. No, I do not.

4 Q Do you have any type of cartilage condition on your
5 right breast?

6 A. No.

7 Q On either breast?

8 A. No.

9 Q Have you ever used the term mature adult relationship?

10 A. No.

11 Q Never used that term with anyone?

12 A. Not that I can recall.

13 Q In 1994 did you take a bus trip to Atlantic City?

14 A. Yes, I did.

15 Q Who went with you?

16 A. I went by myself.

17 Q Was Mr. Graham on that trip?

18 A. He was on the bus.

19 Q Where were you going?

20 A. I was going to Atlantic City.

21 Q For what purpose?

22 A. To lay on the beach.

23 Q You were going alone?

24 A. Yes, I was.

25 Q Who knew that you were going to Atlantic City alone?

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1 A. My husband, my daughter, my mother. Possibly everybody
2 within -- many people in the office. I had just
3 graduated from undergrad and I would make comments as
4 you would hear from the Super Bowl, so what are you
5 going to do. People would say, I'm going to Disney
6 World. My comment would be I'm going to Atlantic City.

7 Q To lie on the beach alone?

8 A. Absolutely.

9 Q How was it that Mr. Graham ended up on the bus?

10 A. I have no idea.

11 Q Did you meet or see anybody else from your employment
12 while you were on the bus?

13 A. Yes. Carol Snokes, a secretary from our office, and I
14 believe it was her fiance was on.

15 Q Wayne Shearer?

16 A. Yes. And I invited them to sit in front of me.

17 Q Where did Mr. Graham sit?

18 A. He was sitting in the back, I believe at the very back
19 row.

20 Q Did you have any conversation with Mr. Graham during the
21 trip?

22 A. Yes. As more people got on at the last stop in
23 Harrisburg is where Carol Snokes and her boyfriend got
24 on. It was after that time Mr. Graham moved up and
25 gave, must have given somebody else his seat, and sat

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1 down beside me.

2 Q What conversation did you have with Mr. Graham?

3 A. General business. He said he was going to visit his
4 sister. Apparently his wife and children were going to
5 go with him that day.

6 Q He told you he was going to visit his sister?

7 A. That's correct.

8 Q What explanation, if any, did you give Carol Snokes and
9 Wayne Shearer as to why you were on the bus or where you
10 were going?

11 A. I told Carol I was going down to lay on the beach, that
12 I passed my undergrad and that was my goal.

13 Q So if I understand correctly, as the trip progressed
14 after leaving Harrisburg, you and Mr. Graham were
15 sitting together?

16 A. Yes.

17 Q Is that correct?

18 A. That's correct.

19 Q And Carol Snoke and Wayne Shearer were sitting in the
20 seat in front of you?

21 A. That's correct.

22 Q After you got to Atlantic City tell me what you did.

23 A. I walked through one of the casinos and went out to the
24 beach.

25 Q Do you remember which casino?

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1 A. No, I don't.

2 Q Was it Bally's, by chance?

3 A. Wherever the bus dropped us off. I'm not sure.

4 Q And that was a Rohrer bus?

5 A. Yes.

6 Q Tell me how you spent the day.

7 A. I was on the beach.

8 Q All day?

9 A. Yes. Stopped to get something to drink, went up to one
10 of the little concessions, and then I went back down.

11 Used the restroom and then I went back to the beach.

12 Q Do you remember what the date of that trip was?

13 A. No, I don't know exactly. I finished my classes June.
14 I'm not sure of the date.

15 Q Were you in the Bally Hotel casino at all that day?

16 A. The trip gave you so much, so many tokens to spend, so I
17 used those before going back on the bus.

18 Q Was that in Bally's?

19 A. I'm not sure which one it was.

20 Q Have you ever eaten at Coakley's?

21 A. Yes.

22 Q Is that a regular place where you dine?

23 A. My husband and I used to go there quite frequently.

24 Q Have you ever been there with Mr. Graham?

25 A. Yes, I have.

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1 Q On how many occasions?

2 A. Several. He had a person in there he was supervising
3 who worked I believe in the kitchen, and he would stop
4 to do a supervision check on him.

5 Q And why would you and Mr. Graham be together?

6 A. Because he was training me.

7 Q Can you give me an estimate of how many times you were
8 in Coakley's with Mr. Graham?

9 A. Several.

10 Q During what time frame?

11 A. Are you asking during the day, or?

12 Q Either.

13 A. It was always during the day. It was always lunchtime,
14 time frame 1995 to '97, '96, somewhere around there.

15 Q Where would your car be that you were with Mr. Graham?

16 A. Quite often at the courthouse, we would leave from the
17 courthouse, in my parking lot.

18 Q So you would leave together?

19 A. Yes.

20 Q Were there ever occasions when you met Mr. Graham in New
21 Cumberland?

22 A. If there was supervision in that area, yes. We would
23 supervise several kids, several kids he was transferring
24 to me, that I was down in that area, anyway, since we
25 would meet. And then he would take me over to meet the

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1 juveniles or in order to supervise them.

2 Q Meaning the individual he was supervising at Coakley's?

3 A. No. There was other juveniles in New Cumberland area as
4 well.

5 Q On those occasions, where would you leave your car when
6 the two of you met?

7 A. Usually behind Coakley's, in the parking lot.

8 Q Did you ever meet at a grocery store in New Cumberland?

9 A. No.

10 Q Do you remember the name of the individual that he was
11 supervising at Coakley's?

12 A. No, I don't. It was an adult.

13 Q It was an adult he was supervising?

14 A. Yes.

15 Q Why would he have been supervising an adult in 1995?

16 A. At that time we were combined. We were adult and
17 juvenile combined. So Mr. Graham did both adult and
18 juveniles. I was specifically juvenile.

19 Q And after the split occurred in 1996, did you still go
20 to Coakley's with Mr. Graham?

21 A. No, I didn't. No.

22 Q So you were never in Coakley's after 1996 when the split
23 occurred between adult and juvenile? Never there with
24 Mr. Graham?

25 A. I don't believe so.

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1 Q Have you ever eaten at the Deer Lodge?

2 A. Yes.

3 Q Have you ever been there with Mr. Graham?

4 A. Yes.

5 Q On what occasion?

6 A. Following a trip, he wanted to get dinner out there.

7 And his friend owned the Deer Lodge, so that's why he

8 wanted to go there.

9 Q Were you there on only one occasion?

10 A. Yes.

11 Q Do you remember the owner's name?

12 A. Nick Mallios.

13 Q Did you know anybody else in the establishment?

14 A. No.

15 Q Meaning employees.

16 A. No.

17 Q Do you remember the name of the cook at the Deer Lodge
18 restaurant?

19 A. No, I don't.

20 Q If I mention the name William Byrd, would that mean
21 anything to you?

22 A. No, it doesn't.

23 Q That would not refresh your recollection in terms of who
24 the employees at the Deer Lodge may have been?

25 A. No.

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1 Q Tell me about the dinner at the Deer Lodge with
2 Mr. Graham. What time did you arrive?
3 A. It was after a trip. I remember it was dark.
4 Q What time of year?
5 A. I don't remember.
6 Q What year?
7 A. It would have been '95 or '96. I don't know.
8 Q Was it just you and Mr. Graham?
9 A. Yes, it was.
10 Q You don't remember what time you arrived?
11 A. No, I don't.
12 Q Do you remember what time you left?
13 A. After eating the meal. An hour, whatever.
14 Q Do you remember seeing or talking to anybody at the Deer
15 Lodge on that particular occasion?
16 A. The owner, probably, but I can't be sure. I don't
17 remember.
18 Q Other than Mr. Mallios you don't remember speaking with
19 anybody else at the restaurant?
20 A. No.
21 Q Were the two of you traveling together?
22 A. For work, yes.
23 Q So you were in his vehicle?
24 A. At times.
25 Q I'm now still speaking about the Deer Lodge dinner.

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1 A. Oh. I don't remember if it was his vehicle or a county
2 vehicle. I don't recall.

3 Q But it was not your vehicle?

4 A. No, it wasn't.

5 Q So the two of you stopped after a trip to have dinner at
6 the Deer Lodge. Was there any particular reason for you
7 attending dinner with him that evening?

8 A. We still had not gotten an hour on the clock for dinner,
9 and we still, you know, Mr. Graham liked to get in all
10 the meals that he could, and so that's where we stopped.

11 Q I don't understand that. You say you didn't get an hour
12 on the clock? What does that mean?

13 A. That means when you're on a trip so long and you are
14 allowed to have dinner, lunch and dinner. It was taking
15 the dinnertime, taking the hour for dinner.

16 Q Where had this trip been?

17 A. I don't know where we had gone. We traveled several
18 times, many times, transporting juveniles.

19 Q Do you remember what the route of travel was to get to
20 the Deer Lodge?

21 A. The main road from off, I assume 81, it's called the
22 Holly Pike. I'm not sure what the route number is.

23 Q So you would have gotten off Route 81 at the Holly Pike
24 there on the south end of Carlisle?

25 A. Yes. I guess it's the Hanover exit. And then taken a

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1 left and gone out the Holly Pike.

2 Q The Mt. Holly Pike?

3 A. Correct.

4 Q And at the time you got off Route 81 at the Holly Pike
5 you would have been within a half a mile of the
6 Cumberland County courthouse?

7 A. Probably.

8 Q Is that where your vehicle was parked?

9 A. My car was probably -- if it was a county car, it would
10 have been over at the garage, which is over near the
11 prison. That's where we leave our county cars when
12 we're going on trips. We go over, leave our cars there
13 and then --

14 Q Out on Route 74?

15 A. What's 74? I'm not sure what the route is. It's near
16 the prison.

17 Q Are you talking about the prison downtown or the prison
18 out of town?

19 A. The prison out of town.

20 Q Okay. Is there any reason why you didn't have
21 Mr. Graham drop you at your car so that you could go
22 home this particular evening instead of going to dinner
23 with him at the Deer Lodge?

24 A. We still had an hour that we could have dinner. We were
25 allowed an hour time for dinner.

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1 Q So at this point in '95 or '96, whenever it was, you
2 opted to go to dinner with Mr. Graham at the Deer Lodge,
3 right?

4 A. Yes, that's correct.

5 Q Your workday was essentially done?

6 A. No. We still had an hour for dinner.

7 Q But there was no work to be done at dinner; that was
8 really sort of a perc, I gather, of your employment?

9 A. Not really. We had been on the road a long time. We
10 had might have stopped for lunch. Usually we drove
11 quite a few hours without stopping. So, no, it was an
12 earned dinner, because I still had to travel home.

13 Q And at that time you were living where, Maple Drive?

14 A. I would have been at -- yes. Yes.

15 Q After dinner was over, what did you do?

16 A. We went back to my car and I drove home.

17 Q So Mr. Graham drove you to the prison and you went home
18 from there?

19 A. Right.

20 Q Did you go directly from the Deer Lodge to the location
21 where your vehicle was parked?

22 A. Yes.

23 Q Were there any other occasions when you were at the Deer
24 Lodge other than this one dinner that we've talked
25 about?

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1 A. My husband and I have been there before.

2 Q How many times?

3 A. Three or four. Prior to that I had been there before I
4 was working for the county, I would say at least 10
5 times prior to that.

6 Q Did you know Mr. Mallios personally?

7 A. Only to say hello.

8 Q You didn't have a personal friendship with him?

9 A. No, I didn't.

10 Q Had you ever been to his house, his private residence?

11 A. Mr. Mallios?

12 Q Yes.

13 A. No, I didn't. I never was.

14 Q Never on any occasion?

15 A. No.

16 Q And specifically, not with Mr. Graham?

17 A. No.

18 Q Did you have a practice of going to the Silver Springs
19 flea market?

20 A. Yes.

21 Q When did you start that practice?

22 A. Oh, 19 -- probably '80.

23 MR. ADAMS: I'm sorry, I can't hear.

24 THE WITNESS: 1980. Probably 1980.

25 MR. ADAMS: Thank you.

Barbara Varner

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1 BY MR. THOMAS:

2 Q How frequently did you go during the time 1995 to '96?

3 A. Probably I would say every couple of weeks on Sundays
4 with my daughter or my son.

5 Q Did you ever go alone?

6 A. I would go over alone and then I would meet my son and
7 pick up my grandson.

8 Q How about during the early 1990s, was the frequency of
9 your attendance any different, '91, '92, '93?

10 A. No. About the same.

11 Q On the occasions when you went to Silver Springs flea
12 market, you say at least on occasion you went alone,
13 correct?

14 A. Generally to meet my -- well, usually meet my son. They
15 lived in Mechanicsburg.

16 Q How old was your son at that time?

17 A. He would have been late twenties.

18 Q What time would you leave to go to the flea market on
19 Sunday morning as a practice or pattern?

20 A. Usually I would try to leave by 7:30, around there.

21 Q What did you do at the flea market?

22 A. Like I said, I usually met my son. They're into jewelry
23 collecting. I might get apples, produce, candles,
24 things like that.

25 Q What time did you meet your son?

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1 A. Usually within -- he would call when he was leaving and
2 I would leave, and I would usually meet them, there's
3 one stand they always went to, probably within a half
4 hour of arriving there. I had a good idea what area
5 they were in.

6 Q So you would usually meet him between 8:00 and 8:30; is
7 that fair?

8 A. Somewhere around there. If I went with my daughter it
9 was usually a little later because it took her a while
10 to get up and going.

11 Q Were there ever occasions when you went to the Silver
12 Springs flea market and did not meet one of your
13 children?

14 A. I can't recall of any time not meeting, being or meeting
15 one of them.

16 Q So you have no recollection of ever having been there on
17 an occasion where you did not meet either your son or
18 your daughter?

19 A. I can't think -- no.

20 Q And normally you would meet your son between 8:00 and
21 8:30 and your daughter maybe a little later, 8:30 to
22 9:00?

23 A. She would go with me.

24 Q She was living with you at the time?

25 A. Well, she would be home for the weekends. She was in

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1 college.

2 Q So if I understand the procedure correctly, you would
3 meet your son there, but take your daughter with you?

4 A. Yes. There were occasions when she wasn't home. I
5 would go over and just meet them and pick up -- the baby
6 was born in July of '95, so from then on I would go and
7 pick up the baby, take him home.

8 Q Did you ever meet Mr. Graham at the Silver Springs flea
9 market?

10 A. I had occasion to see him there.

11 Q How often?

12 A. Several times. I remember coming across -- he knew my
13 son. He had met my son.

14 Q How did he know your son?

15 A. He had met him when my son would come in to visit the
16 office.

17 Q Did he ever provide any assistance of any type for your
18 son?

19 A. What form of assistance are you talking about?

20 Q Any type of assistance. Did you ever have anything to
21 do with your son's employment?

22 A. Well, my son is employed at Schaffner Detention Center.

23 Q Schaffner?

24 A. Yes.

25 Q Mr. Graham have anything to do with that employment?

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1 A. No, he did not.

2 Q Was he instrumental in any way in helping your son
3 secure that employment?

4 A. He had spoken to one person over there, the director.

5 And when I had spoke to the director myself, he said he
6 had my son's application on the top of the pile and was
7 considering him.

8 Q When did Mr. Graham talk to the director about your son?

9 A. I don't know. He just told me he had.

10 Q Who told you that?

11 A. Mr. Graham.

12 Q Did he do that at your request?

13 A. No.

14 Q Do you know why he did that?

15 A. I think Mr. Graham was overly willing to do those kinds
16 of things for anybody.

17 Q So you don't see anything unusual about his
18 recommendation for your son to the Schaffner Detention
19 Center?

20 A. No.

21 Q And you think it's something that he would have done for
22 any of the employees at the Juvenile Probation
23 Department?

24 A. Mr. Graham liked people to be in debt to him so that
25 they would owe him. He was very proud of saying that I

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1 helped so and so get jobs, wherever, so that they would
2 be in debt to him.

3 Q Can you give me an example of someone else who
4 Mr. Graham assisted in terms of obtaining employment
5 either for themselves or for one of their family
6 members?

7 A. I think Mr. Graham believes he helped Debra Green get
8 her job in Probation.

9 Q Anybody else?

10 A. He would brag that he had gotten Denny Drachbar's son a
11 job at a bank, I believe. Others. That's all I can
12 recall.

13 Q And the only contact between your son and Mr. Graham was
14 that he had met him in the office when he stopped to see
15 you?

16 A. Yes. And at the flea market there was times, when my
17 son was with me.

18 Q How many times had Mr. Graham met your son at the flea
19 market?

20 A. I don't recall.

21 Q Was it more than one or two?

22 A. I'd say two is fair.

23 Q Is a fair estimate?

24 A. Yes.

25 Q So he had seen your son approximately two times at the

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1 Silver Springs flea market. And how many times had he
2 met him when he came in to visit you at the county
3 office in Carlisle?

4 A. My son was not there that often. I'd say two would be
5 fair as well.

6 Q So the total number of encounters between Mr. Graham and
7 your son, as far as you're aware, were approximately
8 four times?

9 A. Yes.

10 Q And those were simply an introduction at the courthouse
11 when he was there to visit with you --

12 A. Correct.

13 Q -- or a chance meeting at the Silver Springs flea
14 market?

15 A. That's correct.

16 Q What would you estimate was the longest period of time
17 that Mr. Graham had spent with your son?

18 A. I have no idea.

19 Q More than five minutes?

20 A. I wouldn't think so. I would say no.

21 Q Did you ever leave the Silver Springs flea market with
22 Mr. Graham?

23 A. No, I did not.

24 Q Did you ever see any other individuals that you knew at
25 the Silver Springs flea market while you were in the

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1 presence of Mr. Graham?

2 A. Not that I recall. No.

3 Q On these occasions when you were at the Silver Springs
4 flea market and happened to see Mr. Graham, you don't
5 recall anybody else, particularly from work, being
6 present or seeing you or having any conversation with
7 you?

8 A. It would be in passing, we would stop and talk a little
9 while, and then he would go on his way and I would go on
10 my way. I cannot recall any other employees.

11 Q How about other acquaintances of yours or his, do you
12 recall anybody seeing the two of you together at the
13 Silver Springs flea market?

14 A. Talking?

15 Q Yes.

16 A. Not that I can recall.

17 Q How long would you stay at the Silver Springs flea
18 market?

19 A. At the most would be an hour.

20 Q So you would normally leave there between 9:00 and 9:30?

21 A. Approximately, yes.

22 Q Where would you go from there?

23 A. If I had the child with me, the baby with me, I would
24 generally go home.

25 Q The grandchild?

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1 A. The grandchild. With my daughter, we would go other
2 places shopping or stop at a store, out for breakfast.

3 Q If I remember correctly, you indicated earlier that you
4 don't recall any episodes where you were there alone at
5 the Silver Springs flea market?

6 A. The only time -- possibly to just stop in and pick up
7 some apples. I remember I would pull in and try to get
8 a parking spot and I would run in to get the apples,
9 something like that, seasonal things, and then leave.

10 Q Do you subscribe to any magazines?

11 A. Yes, I do.

12 Q Tell me what magazines you subscribe to.

13 A. Martha Stewart and Oprah.

14 Q Have you ever had a subscription to Redbook?

15 A. No, I have not.

16 Q Have you ever had an occasion to read any Redbook
17 magazines?

18 A. Probably on occasions in a doctor's office.

19 Q Did a Redbook article dealing with anal intercourse ever
20 come to your attention?

21 A. No.

22 Q Did you ever discuss such an article with anyone?

23 A. No, I did not.

24 Q Your name in the prior marriage was Spidle, I think you
25 told us. Is that correct?

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1 A. That's correct.

2 Q Did you have credit cards under the name of Barbara
3 Spidle?

4 A. They were not under my name. Well, yes, I did. Yes, I
5 did. After I was divorced, I did.

6 Q Can you tell me what those credit cards were?

7 A. Either MasterCard or Visa, I don't know which ones.

8 Q Do you maintain the same accounts today, the same cards?

9 A. No, I don't.

10 Q When did you last have a MasterCard or Visa under the
11 name Barbara Spidle? Or if you changed your name after
12 you got married. What I'm looking for is the same
13 account.

14 A. They -- well, the name changed after '93.

15 Q When you got married?

16 A. Right. Accounts, I'm not sure when I changed banks. I
17 believe I changed banks on several occasions. It was
18 more the bank being bought out by another bank.

19 Q Do you remember which banks issued the charge cards to
20 you under the name Barbara Spidle?

21 A. It was the First Federal for a while till I got
22 divorced.

23 Q That was pre-divorce?

24 A. Yes. After that, I don't -- I can't remember the name
25 of the banks. I know it was bought out by another bank.

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1 Q Was it a local bank?

2 A. Um-hum. Yes. I know CCNB. I don't think it was -- I
3 don't recall which bank. Then I went with First
4 Federal.

5 Q Did you ever have an account or charge card with CCNB?

6 A. I don't believe it was CCNB. I just don't recall what
7 bank it was.

8 Q How about Commonwealth National, the old Commonwealth
9 National Bank?

10 A. No, I don't believe I was ever with them.

11 Q How about National Central?

12 A. No. First Federal.

13 Q First Federal Savings and Loan?

14 A. Yes. But that became something else, too, and I can't
15 remember.

16 Q Harris Savings?

17 A. I just can't remember what account, what bank it was in
18 between.

19 Q Do you still have any of your bank statements from the
20 1993-'94 era?

21 A. No, I don't.

22 Q When did you destroy those?

23 A. Probably whenever I changed banks.

24 Q Do you have credit cards today?

25 A. Yes, I do.

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1 Q Who are they with?

2 A. Members First.

3 MR. MacMAIN: I'm sorry, what was that?

4 THE WITNESS: Members First.

5 BY MR. THOMAS:

6 Q How long have you been with Members First?

7 A. I'm not exactly sure. At least, at least six years, I
8 believe.

9 Q What type of credit cards do you have with them?

10 A. I have a Visa.

11 Q Just a Visa?

12 A. It's a Visa/MAC, yes.

13 Q Have you ever had occasion to stay at the Fairfield Inn
14 in New Cumberland?

15 A. No.

16 Q Have you ever had occasion to pay for a room at the
17 Fairfield Inn in New Cumberland with a credit card?

18 A. No.

19 Q Have you ever rented a room anywhere in New Cumberland
20 since 1990?

21 A. Yes.

22 Q Where was that?

23 A. It was after our wedding reception, and it's changed
24 names so often. I think it's Holiday. I believe it was
25 a Holiday at that time.

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1 Q Holiday Inn?

2 A. I believe that's what it was.

3 Q Tell me where it was located.

4 A. Off Limekiln Road. Take a right beyond Bob Evans and
5 it's at the very end of the road.

6 Q Used to be a Sheraton?

7 A. Yes. It's changed names quite often, yes. That was in
8 1993.

9 Q How did you pay for that room?

10 A. My husband paid for that, credit card.

11 Q What was the reason for renting that room?

12 A. It was our wedding. After our wedding reception we
13 stayed there that evening.

14 Q Does the song "Groovy Kind of Love" carry any
15 significance to you?

16 A. No.

17 Q Do you know what that song is?

18 A. I remember the song from the, I don't know, '70s, '60s.

19 Q The song has no significance to you?

20 A. No, it doesn't.

21 Q And you never told anybody that it had any significance
22 to you?

23 A. No.

24 Q Your date of birth I think you told us was January --

25 A. 18th.

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1 Q -- 18, 1949?

2 A. That's correct.

3 Q Correct?

4 A. That's right.

5 Q Where were you born?

6 A. I was born in Harrisburg.

7 Q You're a lifelong Harrisburg area resident?

8 A. Lived in Mechanicsburg most of my life.

9 Q I noticed you graduated from Mechanicsburg High School.

10 A. Yes, I did.

11 Q Tell me about your mother and father.

12 A. My parents presently live in Camp Hill.

13 Q Still both alive?

14 A. Yes, they are.

15 Q How about occupations?

16 A. My father was a diesel mechanic for approximately 30
17 years at L.B. Smith until he went into the ministry in
18 his fifties. Now he's a retired minister for the First
19 Church of God.

20 Q And your mother?

21 A. My mother graduated from John Harris High School.

22 Q What year, do you know?

23 A. Oh, guessing 1938. Close to it.

24 Q What's her present age?

25 A. She is 81. My father's 84.

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1 Q Was she employed outside the home?

2 A. Yes. She had a -- she went to Central Penn secretarial
3 school and worked several years and off and on as a
4 secretary as I was growing up different times.

5 Q Do you recall who for and what area?

6 A. She worked, I believe she worked in Harrisburg for an
7 auto dealer for a while when she first got out of high
8 school. And she worked with the Navy Depot for a while.
9 After that, she mostly baby-sat for children in our
10 home.

11 Q First marriage for both of them?

12 A. Yes.

13 Q How about brothers and sisters?

14 A. I have a brother who is 60.

15 Q His occupation?

16 A. He's a computer specialist, retired Army. Has his own
17 business at this time.

18 Q Is he married?

19 A. Yes, he is.

20 Q How many times?

21 A. It's his second marriage.

22 Q What is his name?

23 A. Stanley Dennis Derr, D-E-R-R.

24 Q Was that your maiden name?

25 A. Yes.

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1 Q Where does Stanley reside?

2 A. He lives in Alexandria, Virginia.

3 Q Do you know the address?

4 A. No, I don't.

5 Q You said it was his second marriage?

6 A. Yes.

7 Q What was the problem with the first marriage?

8 A. I don't know the exact problem, but just didn't seem
9 like they were going the same direction.

10 Q How long did the first marriage last?

11 A. I'd say 13 years. That's approximate.

12 Q Other brothers or sisters?

13 A. I have an older sister who is 57.

14 Q Her name?

15 A. Kathryn Swope, S-W-O-P-E.

16 Q Where does she reside?

17 A. She lives in Dillsburg.

18 Q Is she married?

19 A. Yes.

20 Q How many times?

21 A. Only one.

22 Q And her husband's name?

23 A. Glenn.

24 Q Where do they live in Dillsburg?

25 A. I believe it's Route 74. I believe that's the main

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1 road, towards York.

2 Q Towards York?

3 A. Between Dillsburg and York.

4 Q Do you recall the address there?

5 A. No.

6 Q Children to that marriage?

7 A. They have two children.

8 Q A moment ago you mentioned that you sort of grew up in
9 Mechanicsburg, I guess.

10 A. That's correct.

11 Q You went attended Mechanicsburg High School?

12 A. That's correct.

13 Q How about the elementary and middle schools, were those
14 Mechanicsburg, also?

15 A. Yes.

16 Q What was your principal major or field of study in high
17 school?

18 A. Academic, college prep.

19 Q Was there ever any physical abuse in the household when
20 you were growing up between your parents?

21 A. No, there wasn't.

22 Q How about emotional?

23 A. No.

24 Q How would you describe your childhood to us?

25 A. It was a very normal childhood.

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- 1 Q Any problems at all?
- 2 A. No.
- 3 Q Did you ever have any type of counseling?
- 4 A. No.
- 5 Q Were you ever placed in any type of specialized
- 6 education?
- 7 A. No.
- 8 Q You were college prep throughout your high school years?
- 9 A. Yes, I was.
- 10 Q Did you date during high school?
- 11 A. Yes.
- 12 Q How would you describe your dating experiences?
- 13 A. Positive, good.
- 14 Q Did you date a lot?
- 15 A. No.
- 16 Q Were you a member of any sports teams in high school?
- 17 A. Yes, I was.
- 18 Q Which ones?
- 19 A. I played hockey.
- 20 Q Field hockey?
- 21 A. Um-hum.
- 22 Q Any honors or awards in field hockey?
- 23 A. Yes.
- 24 Q Tell me about them.
- 25 A. I was a state champion in 1965.

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1 Q The Mechanicsburg team was?

2 A. Yes.

3 Q And you were on the team?

4 A. Yes.

5 Q What position did you play?

6 A. I played full back and half back.

7 Q Any other activities in high school?

8 A. I was sorority.

9 Q What was the sorority?

10 A. Senior VANX.

11 Q Senior?

12 A. VANX.

13 Q V-A-N-X?

14 A. X, um-hum.

15 Q Social sorority?

16 A. Yes. I was a Rainbow girl. That's part of a Masonic
17 program, the Children of Eastern Star, that kind of --
18 Rainbow girls.

19 Q You graduated from high school in June of 1966?

20 A. That's correct.

21 Q What were your plans at the time of graduation?

22 A. I had hoped to go on to college eventually, but I also
23 planned to get married. And my parents' feeling was not
24 to get married till I had least a technical training, so
25 I entered cosmetology school.

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1 Q Where was that?

2 A. The Harrisburg Empire Beauty School.

3 Q Were you a virgin when you graduated from high school?

4 A. No, I wasn't.

5 Q When did you lose your virginity?

6 A. My senior year. I was engaged to be married to my first
7 husband.

8 Q Was he a student, also?

9 A. No, not Mechanicsburg. He had graduated from Cumberland
10 Valley High School.

11 Q What year?

12 A. '65.

13 Q And his first name was?

14 A. Kenneth.

15 Q Spidle?

16 A. Um-hum.

17 Q When did you get engaged?

18 A. It was Easter of my senior year, April sometime.

19 Q How did your parents feel about that?

20 A. I don't think they were thrilled, but it was pretty
21 normal at that time for girls to be engaged in senior
22 year. And they liked him, so.

23 Q And you lost your virginity to him?

24 A. Yes.

25 Q How frequently were you having sex at the end of your

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1 senior year in high school?

2 A. Not very often. I'd say once or twice a month.

3 Q What were your marriage plans at the end of high school?

4 A. Marriage plans were to -- my husband at that time was at
5 HACC, and he was drafted to the Army. So we had planned
6 to get married when he got out of the service. And he
7 got orders he was going to be shipped over to Vietnam,
8 so we decided to get married when he came back from
9 basic training in December of '66.

10 Q And is that when you got married, December of '66?

11 A. Yes. Yes.

12 Q You were pregnant at the time?

13 A. No.

14 Q When was your first child born?

15 A. The first child was born November 7th, 1967.

16 Q So you were not pregnant when you were married?

17 A. No.

18 Q And became pregnant in February or thereabouts, '67?

19 A. Around that, yes. Around that, yes.

20 Q And you were what, 18-years-old at the time?

21 A. Yes, I was.

22 Q You were in cosmetology school?

23 A. Yes.

24 Q How long is that course of study?

25 A. It's hours. You have to have 1250 hours. Generally, it

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1 takes about eight months.

2 Q How long did it take you?

3 A. I took a break. I decided to go -- my husband was
4 stationed in Oklahoma, so I decided to go out with him
5 after we were married. I went out with him end of
6 December '66. And then finished up cosmetology school
7 when we came back in '68. I'm sorry. '68.

8 Q That's better.

9 A. Yes. '68.

10 Q Did he ever go to Vietnam?

11 A. No, he did not.

12 Q And he was stationed in Oklahoma?

13 A. Yes.

14 Q How long was he in the military?

15 A. Two years.

16 Q And you were with him in Oklahoma?

17 A. Yes.

18 Q Were you employed at all during the two years you were
19 in Oklahoma?

20 A. No, I wasn't.

21 Q And I gather your son was born, was he born in Oklahoma?

22 A. Yes. Yes.

23 Q After you returned here can you tell me approximately
24 when that was?

25 A. October '68.

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1 Q What did you do when you returned?

2 A. We had a child then. We got an apartment. First we
3 moved in with my parents for about a month. Then we
4 found an apartment in Shiremanstown. My husband found
5 work at UPS. And stayed home and took care of the child
6 and finished up my beauty school.

7 Q When did you graduate from Empire?

8 A. '69. Probably, I'm thinking January, February, '69.

9 Q Did you get a job after that?

10 A. Briefly, for maybe two months. At that time you did not
11 make any money doing that, so it was -- didn't seem
12 worth it to have a baby-sitter.

13 Q Do you recall where you worked for those two months?

14 A. Vi Miller, Simpson Street in Mechanicsburg.

15 Q Any problems with that employment other than lack of
16 adequate compensation?

17 A. No. No.

18 Q Did your husband remain employed at UPS throughout your
19 marriage?

20 A. Yes, he did.

21 Q Is he still employed there, as far as you know?

22 A. Yes. Yes.

23 Q Both of your children were fathered by Mr. Spidle?

24 A. Yes.

25 Q When did you start to have problems in that marriage?

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1 A. The biggest problems were both of our children were in
2 college.

3 Q What were the nature of the problems?

4 A. We just didn't have the same goals, and we realized, I
5 think we both realized that most of our life was built
6 around the children.

7 Q I assume the conception of Richard, who is the oldest,
8 isn't he?

9 A. Yes.

10 Q The conception of Richard was consensual on your part?

11 A. Yes.

12 Q Was there any infidelity in that marriage by either you
13 or Mr. Spidle?

14 A. No.

15 Q So the reason for the divorce would be what?

16 A. We were -- just drifted apart. We had different goals
17 for our lives and it just wasn't working.

18 Q Was there any physical abuse in the marriage?

19 A. Not a consistent abuse. There was times that he would
20 let his anger get out of control.

21 Q Did he ever hit you?

22 A. He shoved me.

23 Q When was that?

24 A. '80s. Early '80s.

25 Q Do you remember the reason?

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1 A. He was just angry. I don't know exactly what
2 precipitated -- he was just angry.

3 Q Did he do that on more than one occasion?

4 A. He had hurt me when we were first married.

5 Q What year was that?

6 A. That was in '96. And again, out of frustration. He was
7 angry.

8 Q You said '96.

9 A. I'm sorry. '66.

10 Q Did you require medical attention?

11 A. No, I didn't.

12 Q How did he hurt you?

13 A. He took my hand and took it down over back of a chair,
14 just in anger.

15 Q Do you remember what the episode was?

16 A. Yes. I had decided to -- I had wanted to stay back. We
17 found out his -- he was not getting orders to go to
18 Vietnam, and I had decided I was going to stay back and
19 finish up my cosmetology school. And he said I was not
20 going to do that. He was frustrated, he was angry. And
21 it just, it happened.

22 Q So you wanted to stay in Mechanicsburg, he wanted you to
23 go to Oklahoma?

24 A. Back with him, yes.

25 Q Other than those two episodes, were there other episodes

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1 of physical abuse?

2 A. No. Just a lot of intimidation, a lot of yelling and
3 screaming, those type things.

4 Q Over what?

5 A. It could be anything. If I would decide to go away at
6 night, maybe to, a lot of times it was even to church,
7 he just wanted me home, having a meal ready for him. He
8 was very much basic things like that.

9 Q Those would degenerate into a screaming match?

10 A. Not a screaming match. More he wouldn't talk to me for
11 several weeks at a time. So we just sort of lived
12 parallel lives, staying together for our children.

13 Q Can you give me a time frame for this conduct?

14 A. It was more during when the children were in maybe
15 senior high, junior high, that time. Probably early
16 '80s.

17 MS. WALLET: Can we stop just a moment?

18 (Recess taken from 10:44 until 10:57 a.m.)

19 BY MR. THOMAS:

20 Q Barb, before the break we were talking about the
21 difficulties with your first marriage and we explored a
22 little bit the physical abuse elements involved there.
23 It sounds like the physical abuse started in the very
24 early phases of the marriage. Is that correct?

25 A. The one time, yes.

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1 Q Did the physical abuse continue throughout your marriage
2 to Mr. Spidle?

3 A. No.

4 Q Was there a hiatus from the early episodes in the '60s
5 until the 1980s when things started to deteriorate?

6 A. We were just busy raising our children. So as far as a
7 lot of problems then, it was just maintaining.

8 Q Before I forget, can I have your Social Security number?

9 A. [REDACTED]

10 Q When you say it was busy with the kids, what do you mean
11 by that?

12 A. My husband worked a lot of hours. He was gone, he was
13 an over-the-road driver for UPS. I was taking care of
14 the children. So we just were doing our own things
15 parallel.

16 Q But there were some episodes of physical abuse?

17 A. Just the one other time where he pushed me.

18 Q So there were only two, total?

19 A. Right. Yes. A lot of anger, but that's about it for
20 the physical.

21 Q So there were two episodes of physical abuse. There was
22 a fair amount of screaming and yelling?

23 A. Fair amount, I would say, that occurred just several
24 times a year. It was not an ongoing weekly thing. It
25 was just, it was more he wouldn't talk to me, more of a

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1 silent treatment.

2 Q Was there any physical violence directed toward the
3 children?

4 A. No. Just verbal.

5 Q What do you mean by that?

6 A. Just again, frustration, just yelling. If they --
7 rather than just correcting them, he had a way of just
8 yelling at them to correct them.

9 Q Who were the children closer to, you or him?

10 A. To me.

11 Q Were there any other problems in the first marriage?

12 A. No.

13 Q What was the state of your marriage to Mr. Spidle in
14 1989 when you started working for the county?

15 A. We were divorced.

16 Q When did you separate?

17 A. We separated, I filed for divorce spring of '89, and he
18 moved out in the summer of '89, early summer.

19 Q Were you separated for any period of time before he
20 moved out?

21 A. No, we were both living in the same house.

22 Q And that was Apple Drive?

23 A. Yes.

24 Q Let me see if I get that sequence correct. 1980s you're
25 having marital problems with him. As you described it,

Barbara Varner

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1 you had grown apart, and at some point I guess you had a
2 conversation with him about divorce.

3 A. Yes.

4 Q Where were the children at that point?

5 A. My son was in college. They were both in college.

6 Q Both at West Chester?

7 A. Yes.

8 Q Tell me about the conversation with Mr. Spidle where you
9 discussed divorce.

10 A. It was a decision I made in April. I remember telling
11 him what my plans -- that it just wasn't working. I had
12 asked him to go to counseling; he basically refused.
13 And it was one of those times trying to work with him to
14 see what we could do, and he just refused to go to
15 counseling. And then I progressed, met with an attorney
16 and proceeded towards filing.

17 Q Did you ever tell him that if he didn't go to counseling
18 you were going to file for divorce?

19 A. No.

20 Q So you were having this deterioration in the
21 relationship, I guess, for lack of a better term.

22 A. Right.

23 Q You said to him, I think we should go to counseling. He
24 said no, correct?

25 A. Correct.

Barbara Varner

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1 Q You then went and hired a lawyer.

2 A. There was a time we tried to go away on vacation
3 together. We attempted that. It just didn't work. It
4 just basically the feelings weren't there anymore.

5 Q What do you mean when you say it didn't work?

6 A. It was just a very uncomfortable time. It just was not
7 working.

8 Q Where was the vacation?

9 A. We went to Rehoboth Beach. I think that's Delaware.

10 Q When was that?

11 A. It would have been in the spring, early spring of '89,
12 April.

13 Q Was it after that trip that you consulted with a lawyer?

14 A. Yes.

15 Q Who was the lawyer?

16 A. John Purcell in Harrisburg.

17 Q How did you know Mr. Purcell?

18 A. My brother had known him and he recommended him.

19 Q Does your brother have a drinking problem?

20 A. No.

21 Q Has he had any problems with the law?

22 A. No.

23 Q Do you know how he knew Mr. Purcell?

24 A. I think he used him for his divorce lawyer.

25 Q Didn't you tell me where your brother's living now?

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1 A. Alexandria, Virginia.

2 Q That's right. You couldn't remember the address, right?

3 A. Right.

4 Q Is he employed in Alexandria?

5 A. He's self employed.

6 Q What's he do?

7 A. Him and his sister-in-law are developing security
8 equipment. He's a computer specialist.

9 Q Do they have a company name?

10 A. Not that I know of. I don't believe -- if they do, I
11 don't know what it is.

12 Q You say his sister-in-law?

13 A. Yes.

14 Q Who is that?

15 A. I don't know her name.

16 Q What is her relationship to him?

17 A. Sister-in-law.

18 Q But how related?

19 A. Through -- it's his wife's sister.

20 Q What's his wife's name?

21 A. Mary Rose.

22 Q Was Rose her maiden name?

23 A. No. I don't know what her maiden name was.

24 Q Do you know her husband's name?

25 A. Mary Rose's husband's name?

Barbara Varner

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1 Q Yes.

2 A. That's my brother.

3 Q That's convenient, wasn't it. So you consulted with
4 Mr. Purcell, and I assume he filed a Complaint in
5 Divorce?

6 A. Yes.

7 Q Did he file that in Cumberland County?

8 A. Yes.

9 Q Who represented Mr. Spidle?

10 A. It's in Lemoyne, at the bridge in Lemoyne across from
11 Hardee's, that group that's there. It was part -- was
12 it Irving, Irwin or something? I can't think of the --

13 Q Johnson Duffie?

14 A. Yes. It was one of their associates. I don't know the
15 gentleman's name.

16 Q Was the divorce contested?

17 A. No.

18 Q What were the basic terms of the property settlement?

19 A. My husband bought me out. He gave me, you know, a
20 percentage, and I left the home.

21 Q I thought you testified earlier that he had moved out.

22 A. He moved out briefly, and then moved back in again.

23 Q When you moved out of the home on Apple Drive, where did
24 you live?

25 A. Our divorce was final in December, actually 31st of

Barbara Varner

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1 1989. So I remained in the home.

2 Q Until when?

3 A. Till October of '89.

4 Q Where did you move then?

5 A. I moved in with my present husband.

6 Q At what address?

7 A. Sussex Avenue. And that would be, I believe it's

8 actually a Harrisburg address.

9 Q At any point during the 1980s did you live anyplace
10 other than at Sussex Avenue or Apple Drive?

11 A. No.

12 Q When was the Complaint in Divorce actually filed? Was
13 it April?

14 A. I don't know. I know it was filed around this time. It
15 was early spring. I'm saying April would be a good
16 guess.

17 Q And your husband continued to reside in the house with
18 you until sometime in the summer?

19 A. He moved out, I believe it was June to July.

20 Q Of '89?

21 A. Um-hum.

22 Q And where did he move to?

23 A. He moved with his parents.

24 Q Where do they live?

25 A. On Trindle -- well, they did live on Trindle Road in

Barbara Varner

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1 Mechanicsburg for several weeks.

2 Q And he lived with them until when?

3 A. He moved back in the end of July.

4 Q Back into Apple Drive?

5 A. Yes.

6 Q What was the reason for that?

7 A. Under the advice of his attorney.

8 Q So the two of you lived under the same roof then while
9 the divorce proceedings were continuing?

10 A. Yes.

11 Q And the two of you lived there together until when?

12 A. It was October is when I moved in with Mr. Varner, my
13 husband.

14 Q When did you start dating Mr. Varner?

15 A. We met at HACC during a class the end of July of '89.

16 Q What was the class?

17 A. Some type of history class.

18 Q Do you remember any more about it?

19 A. History of the Western World, I'm guessing at.

20 Something like that.

21 Q Who was the professor?

22 A. Josh -- I cannot remember his last name. He was an
23 interim. Not interim, yeah, just an interim professor
24 for the summer.

25 Q When did you enroll in HACC?

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1 A. 1986.

2 Q What was your major?

3 A. My major was social work.

4 Q And you were working toward a degree?

5 A. I was just going to school. I was hoping to get an
6 associate degree.

7 Q Why was Mr. Varner in the class?

8 A. He was finishing up. He was a student at Shippensburg
9 University and he was working at AMP in the Harrisburg
10 area. And I believe he just had several electives he
11 had to finish up. And I believe a co-worker of his told
12 him you could do that at HACC. And so I guess he found
13 the history class was interesting to him and he had
14 enrolled there. I believe it was just two classes he
15 took to earn his graduate.

16 Q Do you remember what the other course was?

17 A. American, something American history. It's more of a
18 civics class, that type thing.

19 Q Do you remember anything else about the history class
20 where the two of you met?

21 A. No, I don't.

22 Q You can't tell me the name of the professor?

23 A. Josh was his first name. I just do not recall his last
24 name.

25 Q Can't tell me the course number?

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1 A. No. No.

2 Q Do you remember what level course it was?

3 A. I was in just a second year at HACC, so I'm guessing
4 it's probably 200, 300 level, something like that.

5 Q Tell me how you two met and how the relationship
6 progressed.

7 A. We met in class. We were older, non-traditional
8 students, and after speaking with each other we met each
9 other over at the Forum, we were there for a field trip,
10 and we began talking, realized we had children the same
11 age. And then we would see each other in class another
12 time, and just an interest developed.

13 Q And you began dating?

14 A. Yes.

15 Q When did you two start having sexual relations?

16 A. In October, when I moved in.

17 Q October of 1989?

18 A. Yes.

19 Q No sexual relations before then?

20 A. No.

21 Q And your divorce was final on December the 31st,
22 correct?

23 A. Right, um-hum.

24 Q The last day of the year?

25 A. Right.

Barbara Varner

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1 Q In terms of property settlement, you told me that your
2 husband, first husband, Mr. Spidle, purchased your
3 interest in the home on Apple Drive?

4 A. That's correct.

5 Q What other terms were there to the property settlement?

6 A. I got my vehicle. And my children were given -- we had
7 a car for them, they were given that. And they were
8 both at West Chester so it was convenient for them.

9 He -- let's see. The percentage is what I got, a
10 percentage of the equity in everything we had.

11 Q And what was the percentage?

12 A. 65 percent.

13 Q Do you remember what the dollar number was that you were
14 paid from him buying out your interest in the home?

15 A. It was also his retirement as well. He kept his
16 retirement. It was close to a hundred thousand.

17 Q And you say he kept his retirement account?

18 A. Yes.

19 Q And you got what? 65 percent of everything else?

20 A. Um-hum.

21 Q What about the children, was there a custody order?

22 A. No. They were both, they were 18.

23 Q Tell me about your sexual relationship with Mr. Varner.

24 A. In what aspect?

25 Q I'm going to have to ask you some uncomfortable

Barbara Varner

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1 questions, and I apologize for that --

2 A. Okay.

3 Q -- in advance. Frequency of your sexual relationship
4 with him?

5 A. At least probably five times a month. One time a week.

6 MR. ADAMS: I'm sorry, I can't hear, ma'am.

7 THE WITNESS: At least one time a week.

8 BY MR. THOMAS:

9 Q Any sexual preferences in terms of positions?

10 A. No.

11 Q Any oral sex?

12 A. Yes.

13 Q Was that something that was different than your first
14 marriage?

15 A. Yes.

16 Q Were you both and a giver and a receiver of oral sex in
17 the marriage with Mr. Varner?

18 A. Yes.

19 Q In the first marriage was there any oral sex at all?

20 A. No.

21 Q On either part?

22 A. No.

23 Q How would you describe your satisfaction level with the
24 sex in the relationship with Mr. Varner?

25 A. Very well.

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1 Q Does he have any sexual performance problems?

2 A. No, he doesn't.

3 Q Do you?

4 A. No.

5 Q Are you orgasmic in this relationship?

6 A. Yes.

7 Q Were you in your first marriage?

8 A. No.

9 Q Have you been with any man other than Mr. Spidle or
10 Mr. Varner?

11 MS. WALLET: I assume that question was have you
12 been with any man in a sexual way?

13 MR. THOMAS: Yes.

14 BY MR. THOMAS:

15 Q Do you have a position that you prefer?

16 A. No.

17 Q Do you drink alcoholic beverages?

18 A. On occasion.

19 Q Would you describe yourself as a social drinker?

20 A. Social drinker to me would be once during a social
21 event, once or twice a week. That's how I define, yes.

22 Q Once or twice a week?

23 A. Yes.

24 Q When type of alcoholic beverages do you drink?

25 A. Wine.

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1 Q Any hard liquors?

2 A. Gin, on occasion.

3 Q How about Mr. Varner, does he consume alcoholic
4 beverages?

5 A. Yes.

6 Q What's his drink of choice?

7 A. I'd say beer.

8 Q How would you describe his drinking habits?

9 A. Again, I would say maybe two or three beers a week.
10 Usually if we're out, go out for dinner.

11 Q Have you ever described him as a heavy drinker --

12 A. No.

13 Q -- to anyone?

14 A. No.

15 Q Does he have a brother?

16 A. Yes, he does.

17 Q Does his brother have a drinking problem?

18 A. I'm not a drug and alcohol evaluator in that aspect.

19 Q Well, you've been certainly lived in society long enough
20 to know when people have alcohol problems, haven't you?

21 A. Yes. Whenever I've seen him intoxicated at certain
22 times, parties, at his home.

23 Q So you've seen him intoxicated on a number of occasions?

24 A. I would say several.

25 Q In your opinion does he have a drinking problem?

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1 A. I don't know what he does on a daily basis. At those
2 times he has drank pretty heavy.

3 Q Have you ever told anybody that Mr. Varner's brother has
4 a drinking problem?

5 A. It's well known that Mr. Varner's brother had several
6 DUIs in Cumberland County.

7 Q Has he been through the DUI schools in Cumberland
8 County?

9 A. Yes, he has.

10 Q How many DUIs has he had?

11 A. I believe he's had two.

12 Q Has he spent any time in jail --

13 A. Yes.

14 Q -- as a result of the DUI?

15 A. Yes.

16 Q Any other jail time for anything?

17 A. Not that I know of.

18 Q Does anybody else in Mr. Varner's family have any DUIs?

19 A. Not that I know of.

20 Q Does anybody else in his family have a drinking problem?

21 A. No.

22 Q Have you ever told anybody that Mr. Varner's brother has
23 an alcohol problem?

24 A. No.

25 Q Did you ever discuss Mr. Varner's brother with

Barbara Varner

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1 Mr. Graham?

2 A. Mr. Graham discussed my brother-in-law with me. He knew
3 he had a DUI and had been in class.

4 Q What was the substance of that conversation?

5 A. Just how is he related. You know, the name came up.

6 Q When did that conversation occur?

7 A. Right after I started working in Juvenile Probation.

8 I'd say '95, '96.

9 Q Do you know when Mr. Varner's brother had his second
10 DUI?

11 A. No, I don't.

12 Q Do you know when he had the first DUI?

13 A. No, I don't.

14 Q Do you know what the brother's employment is?

15 A. He's retired.

16 Q From where?

17 A. Masland in Carlisle.

18 Q Masland Carpet?

19 A. Yes.

20 Q Do you know what his job was there?

21 A. No, I don't.

22 Q Is he married?

23 A. Yes.

24 Q Where does he live?

25 A. Pine Road outside -- it's a Carlisle address.

Barbara Varner

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1 Q Pine Road or Pinetown Road?

2 A. Pine Road.

3 Q Carlisle?

4 A. Um-hum.

5 Q Is your husband a member of a country club?

6 A. Yes, he is.

7 Q Which country club?

8 A. Carlisle.

9 Q How long has he been a member there?

10 A. Approximately five years.

11 Q What activities does he participate in at Carlisle
12 Country Club?

13 A. Golfing.

14 Q How frequently does he play golf?

15 A. Not very frequently right now.

16 Q Do you mean because it's winter?

17 A. Yes. But he has also cut back on his frequency.

18 Q Why is that?

19 A. Physical problems.

20 Q Which are what?

21 A. He has essential hand tremors.

22 Q Before he developed the physical problems, how often was
23 he playing golf at Carlisle Country Club?

24 A. He's always had the problems, it's just they're getting
25 worse as he gets older. He would play one or two days,

Barbara Varner

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1 one or two mornings a week.

2 Q Weekends?

3 A. Yes.

4 Q Did he play Sunday mornings regularly?

5 A. Yes, he did.

6 Q Did he have a regular foursome that he played in?

7 A. Yes.

8 Q Do you know the members of the foursome?

9 A. No. I think it would change.

10 Q In 1994 through 1996 can you estimate for us during the
11 spring, summer and fall months, how often he would play
12 golf?

13 A. I'd say twice a week.

14 Q Principally on the weekend?

15 A. Yes.

16 Q Do you happen to know what his handicap is?

17 MS. WALLET: I'm going to object that question. I
18 can't see how that could possibly have any relevance to
19 anything. And I'd like to say, Mr. Thomas, that we have
20 produced Mrs. Varner here for one day of deposition.

21 However you want to use that day is fine with me, but
22 beware that one day is one day.

23 MR. THOMAS: We're well aware what the rules are
24 and we'll attempt to abide by them, and if it's
25 insufficient time, we will petition the Court.

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1 MS. WALLET: You want her to answer the question
2 about her husband's handicap?

3 MR. THOMAS: If she knows the answer.

4 THE WITNESS: I don't know.

5 BY MR. THOMAS:

6 Q Your husband was employed at AMP?

7 A. Yes.

8 Q Is he still employed?

9 A. No, he's not.

10 Q When did he last work for AMP or Tyco?

11 A. I believe in '98, I believe. That's a guess.

12 Q Is he retired now?

13 A. Yes, he is.

14 Q What was his job with AMP or Tyco while he was employed?

15 A. He was a product manager.

16 Q Did that involve traveling?

17 A. Occasionally.

18 Q Can you estimate for me how often he traveled?

19 A. Maybe four, five times a year. Some years, not at all.

20 Q In the period 1992 through 1996 can you estimate what
21 his travel schedule was?

22 A. I don't know.

23 Q When you say he traveled four to five times a year, what
24 time frame are you referring to?

25 A. Could you rephrase that?

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1 Q You've testified a few minutes ago that you estimated
2 that he would travel four to five times a year with his
3 job with AMP or Tyco. What time frame were you
4 referring to? What years?

5 A. I don't recall.

6 Q Did you ever watch X-rated movies with Mr. Varner?

7 A. Once or twice I can remember, yes.

8 Q Is that something he enjoys?

9 A. Yes.

10 Q How do you feel about it?

11 A. It's fine with me.

12 Q Did you ever discuss that activity with anyone?

13 A. No.

14 Q Did you ever discuss it with Mr. Graham?

15 A. No.

16 Q Have you ever told anybody that Mr. Varner was
17 insensitive to your sexual needs?

18 A. Absolutely not.

19 Q Did you ever have that conversation with Mr. Graham?

20 A. Absolutely not.

21 Q When did you and Mr. Varner get married?

22 A. November 27th, 1993.

23 Q Did you take a honeymoon after the marriage?

24 A. Not immediately after.

25 Q How long after?

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1 A. Probably a week to 10 days later.

2 Q Where did you go?

3 A. We went on a cruise to the Mexican Riviera.

4 Q Did you discuss your honeymoon with anybody?

5 A. I'm sure I did.

6 Q Did you discuss it with Mr. Varner?

7 A. With Mr. Varner?

8 Q I'm sorry. With Mr. Graham?

9 A. I discussed it in the common lounge area that was shared
10 by a lot of departments. I can't specifically remember
11 talking to Mr. Graham about it.

12 Q Do you recall what you said about the honeymoon in this
13 lounge conversation that you had?

14 A. Just what the plans were, where we were going.

15 Q Nothing about the details?

16 A. Not till afterwards.

17 Q How about afterwards?

18 A. Certainly, discussed it with my friends, in the break
19 room, had pictures, that kind of thing.

20 Q Do you have a history of broken toes?

21 A. No.

22 Q Does Mr. Varner have a history of broken toes?

23 A. No.

24 Q Have you had your teeth recapped?

25 A. No.

Barbara Varner

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1 Q Has Mr. Varner had his recapped?

2 A. No.

3 Q What's the ancestral background in your family?

4 A. Ancestral? Caucasian.

5 Q Do you have any native American in your blood lines?

6 A. Allegedly.

7 Q Do you know which tribe?

8 A. I don't know.

9 Q Did you ever discuss your Native American blood lines
10 with anyone?

11 A. Yes. I would speak about that with several people. My
12 son was trying to track down the ancestral connection at
13 one time.

14 Q Did you discuss that with Mr. Graham?

15 A. Not that I can recall.

16 Q I'm going to take you back. Let's talk about your
17 employment history a little bit. We've already touched
18 on that to some extent, in terms of your brief work
19 history during your first marriage.

20 You were a hair dresser for a short period of time,
21 correct?

22 A. Right.

23 Q When was the next time that you were gainfully employed?

24 A. I worked from my home for quite few years doing friends'
25 and relatives' hair. And there was a period that I

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1 worked as a hairdresser for a funeral parlor and that
2 was, say, '83, '84, around this time. I'm just
3 guessing. And then I obtained work at Holiday Hair.
4 That again was part-time.

5 Q You say that was part-time?

6 A. Yes. That also was very short-lived.

7 Then in 1980 I -- I started working part-time for
8 the Capital Area Intermediate Unit.

9 Q In 1980?

10 A. Yes, around '80.

11 Q What were you doing for them?

12 A. I was a swimming instructor.

13 Q Was that part-time?

14 A. Yes, until 1985, when I came full-time as a teaching
15 assistant for the Intermediate Unit. And I continued
16 working the school year, full-time school year until
17 1989 when I went to the county.

18 Q And that was a full-time job at Capital Area
19 Intermediate Unit?

20 A. Yes, it was.

21 Q What was your rate of pay there? Approximately.

22 A. Yes. I'm guessing maybe 9,000 a year.

23 Q As part of the Capital Area Intermediate Unit did you
24 have an employee handbook or manual?

25 A. Yes.

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1 Q And as early as 1985, since that's when you went
2 full-time, you were aware that sexual harassment or
3 discrimination was prohibited in that workplace?

4 A. I can't remember reading about it, but I would assume.

5 Q Do you recall reading the employee handbook at the
6 Capital Area Intermediate Unit at any time?

7 A. As needed, sure.

8 Q Did you have occasion to file any claims or complaints
9 against any of the personnel of the Capital Area
10 Intermediate Unit?

11 A. Claims?

12 Q Complaints about any of your co-workers or supervisors.

13 A. No.

14 Q Did you follow any grievance procedures while employed
15 at the Capital Area Intermediate Unit about anything?

16 A. No.

17 Q What did you do as a teaching assistant?

18 A. I was in the classroom for the first three years, I was
19 in a visually impaired classroom. So I taught Braille.
20 We did a lot of orientation and mobility skills. They
21 were multiple handicapped, they were mentally retarded.
22 Some were physically handicapped. The overriding
23 problem was their vision, though, so we focused on the
24 visual problems. It was aiding the teacher, helping
25 assist the teacher.

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1 Q What was your reason for leaving the Capital Area
2 Intermediate Unit?

3 A. I took a Civil Service exam and applied for a caseworker
4 position. And then I was interviewed by Children and
5 Youth and decided to go there. It was more money. It
6 was also in line with my degree aspirations.

7 Q How did you learn that the job was available?

8 A. Civil Service. I scored high on the Civil Service test,
9 was put on a caseworker list, and Children and Youth was
10 I guess the one that came up and they notified me about
11 an interview.

12 Q Do you remember who you spoke to initially at the
13 county?

14 A. My interview was with Darlene Orr.

15 Q And obviously you were hired for Children and Youth,
16 right?

17 A. Yes, that's correct.

18 Q And initially hired as a caseworker trainee?

19 A. Right.

20 Q At a rate of pay of about \$15,000 a year?

21 A. That's correct.

22 Q When did you first meet Mr. Graham?

23 A. Probably the beginning of 1990 somewhere, the first
24 couple months of 1990.

25 Q How did you meet him?

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1 A. One of my fellow case workers was taking me around the
2 different departments, introducing me to different
3 staff.

4 Q Did you two have occasion to work together?

5 A. Yes.

6 Q Tell me when and on what.

7 A. We shared several cases. I would have the children as
8 dependent children, mostly neglect children, and
9 Mr. Graham was supervising the father in these homes.

10 Q What was your opinion of Mr. Graham in 1991, 1992?

11 A. If I would ask for his assistance with the one gentleman
12 who had a very violent temper, he would call him in and
13 talk to him. The gentleman would not let me in to see
14 his children a lot of times, and I had to see the
15 children. So he would call him in. Or he would go down
16 to see the gentleman, which is a block down the street,
17 and try to get him in line, and let him know that I had
18 to see the children. So it was more of an assistant to
19 me as a probation officer and me as a caseworker.

20 Q What was your opinion of him personally?

21 A. Personally, I don't think I had a real opinion of him.
22 It's just that he was helpful when I needed the help
23 with certain clients.

24 Q During the first three years you were at the county, how
25 often did you deal with Mr. Graham on cases?

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1 A. We had shared two sexual offender cases; he had the
2 offender and I had the children. And the other one was
3 a severe neglect case.

4 Q So how often?

5 A. As needed if there was a problem.

6 Q Can you give me an estimate of how many times a year you
7 were dealing with Mr. Graham asking for assistance?

8 MS. WALLET: I'll object to the form of that
9 question. That's sort of a two-part question. You want
10 to break that down?

11 MR. THOMAS: Sure.

12 BY MR. THOMAS:

13 Q What I'm trying to learn, Barbara, is the amount of
14 contact that you had with Mr. Graham, and we can do it
15 any way you choose. What I'm looking for is how often
16 during a given year, let's take 1991, how many times in
17 1991 did you have occasion to deal with Mr. Graham,
18 either asking assistance or working on a case with him?

19 A. That would be the period where I had the high-risk
20 child, well, three children. I would --

21 Q The sex offender cases?

22 A. No. This would be the neglect, severe neglect case.
23 And I would say probably contact, maybe once a month.
24 It could be phone conversation, asking for his
25 assistance. To actually physically get involved, that

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1 might have been two or three times in a year.

2 I would see him in the break room, we would discuss
3 the case, how are things going, that kind of thing.

4 Q How about 1992, how much contact did you have with
5 Mr. Graham during 1992?

6 A. I would say probably approximately the same, because I
7 know we had two or three cases where, again, the men,
8 the father was volatile, and I was to supervise the
9 children.

10 Q And so once a month you would have phone contact with
11 him, and maybe two or three times during the year you
12 would actually have to have him physically intervene and
13 you would see him on those occasions?

14 A. When he actually intervened?

15 Q Yes.

16 A. There was a time when the gentleman would not even let
17 me in the house to see the children. I called him and I
18 asked for his assistance to meet me down there. It was
19 a high-neglect family, real concerned about the youngest
20 one not being able to thrive. So I had to see his
21 children. So I did ask for his assistance to meet me
22 there and do what he had to do with the father.

23 Q How about 1993?

24 A. '93? Again, cases that we shared, sexual offender kept
25 coming back into the home. He was under Mr. Graham's

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1 jurisdiction. Asked him for assistance to go, either
2 meet me at the house, because of the fear of what he
3 would, the father would do to me.

4 Q Was the amount of contact that you had with Mr. Graham
5 about the same? Telephone once a month?

6 A. Probably, yes. I would guess.

7 Q And maybe a couple, two to three face-to-face occasions?

8 A. Yes.

9 Q How about 1994?

10 A. If there was a case we shared, it would be the similar.
11 It would be similar to that.

12 Q So again, once a month?

13 A. Um-hum.

14 Q And two or three face-to-face visits?

15 A. Right. That's a guesstimate.

16 Q Understood. And of course, in February of '95 you
17 transferred to Probation and then you worked closely
18 with him after that?

19 A. That's correct.

20 Q During this period of that we're talking about, and I
21 want to restrict my questions at the moment between 1990
22 and 1994, did you have any other contact or dealings
23 with Mr. Graham other than what we've described?

24 A. Not that were not work related. Like I said, in the
25 break room, there was times I would see him in there.

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1 General conversation.

2 Q When you say you saw him in the break room on occasion,
3 can you quantify for me how often in the period 1990
4 through 1994 you saw him in the break room?

5 A. Perhaps maybe once or a couple times a week. All of our
6 lunches and everything were kept in there.

7 Q And is that when you saw him, over lunch?

8 A. No. I'm just saying that's where we stored our lunch.
9 It would be just going over.

10 Q When did you see him in the break room?

11 A. There's no really set time. It was just occasionally.
12 A lot of people would eat lunch in the break room as
13 well.

14 Q Did you ever eat lunch in the break room?

15 A. Once in a while, yes.

16 Q Did you ever eat with Mr. Graham in the lunch room?

17 A. No.

18 MS. WALLET: I assume that question is seated at
19 the same table?

20 MR. THOMAS: In the room.

21 THE WITNESS: Oh. That's possible. I don't
22 remember.

23 BY MR. THOMAS:

24 Q If I understand your testimony correctly, it is that
25 and, again, I get the impression that this was a pretty

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1 infrequent occurrence?

2 A. Um-hum.

3 Q That you did not -- you have to say yes for the record.

4 A. Yes.

5 Q You didn't see him on a regular basis in the break room
6 during the work week?

7 A. No.

8 Q And you didn't see him outside the workplace except on
9 very, very rare occasions; is that fair?

10 A. That's fair. That's true.

11 Q And the occasions which you saw him in the break room
12 were just coincidence? Just happened to both be there
13 at the same time?

14 A. Yes.

15 Q The best you're able to tell me is you would estimate
16 that during the period 1990 through 1994 at a couple of
17 times a week? Is that accurate?

18 A. That's accurate.

19 Q Did you ever call Mr. Graham and ask him to meet you in
20 the break room?

21 A. No.

22 Q Did you ever call him and ask to meet anywhere?

23 A. Down at the one client's house, yes, I did.

24 Q And on how many occasions was that? Once?

25 A. Maybe twice.

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1 Q So other than those two occasions when you called and
2 asked him to meet down at the client's house, you did
3 not call Mr. Graham and ask him to meet you anywhere?

4 A. No.

5 Q And the occasions on which you and he ended up in the
6 break room were merely coincidence and happened maybe a
7 couple of times a week?

8 A. That's correct.

9 Q How would you describe your relationship with Mr. Graham
10 in the period 1990 through 1994?

11 A. Working relationship.

12 Q Friendly?

13 A. Cordial.

14 Q How well did you feel that you knew Mr. Graham during
15 that period?

16 A. As well as I would know any other co-worker.

17 Q And no better?

18 A. No. No.

19 Q Meaning you didn't feel you knew him any better than any
20 of your other co-workers?

21 A. No.

22 Q You won't describe your relationship as a close one
23 during that period? Meaning 1990 through 1994.

24 A. No.

25 Q And I guess would you describe it as sort of a

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1 professional co-worker type arrangement?

2 A. That's correct.

3 Q Were you aware of any rumors with respect to you having
4 an intimate relationship or an affair with Mr. Graham
5 during that period?

6 A. No.

7 Q You don't recall anybody asking you whether or not you
8 were having an affair with Mr. Graham?

9 A. No.

10 Q There was no discussion with you by anybody suggesting
11 that you were too close to him?

12 A. No.

13 Q How did it happen that you transferred to the Probation
14 Department in February of 1995?

15 A. I had applied for a position the year before, when I was
16 still doing my undergrad work, with the Chief Bolze. At
17 that time he told me I needed to have an undergrad
18 degree.

19 And then a friend of mine, Lynn Dickerson, was
20 doing her internship in Juvenile Probation, working on a
21 grant that was called Family Preservation. She had
22 spoken to me about how I had worked with a local mental
23 health program, establishing their Family Preservation
24 program. In Children and Youth I was an in-home
25 protective service worker, which meant most of my

1 emphasis was on family involvement and keeping the
2 children in the home. So Lynn and I spoke about this,
3 that she was working on this grant and that she was the
4 same age, she was a criminal justice major with me at
5 school. And --

6 Q I thought you were a social science major?

7 A. That was my associate degree. My undergrad was in
8 criminal justice.

9 Q Okay.

10 A. And she had spoke to me about this position, how it
11 would be a nice blend of my criminal justice degree plus
12 my Family Preservation experience, and recommended that
13 I should apply for the position.

14 Q When was that conversation?

15 A. I think her internship was the summer of '94.

16 Q Were there any other factors that influenced your
17 decision to apply for a transfer to the Probation
18 Department?

19 A. I had met with Mr. Osenkarski and we had discussed the
20 position. He was aware that my degree was in criminal
21 justice and he knew what my background was with Children
22 and Youth as protective services.

23 I also liked the idea that it was not a
24 micromanaged department, that you were more independent
25 and that Mr. Osenkarski trusted you to be able to manage

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1 your own time and do your own thing, which was different
2 than it was with Children and Youth.

3 But mostly is my field was criminal justice and I
4 really wanted to be able to get into it, and this was a
5 good opportunity.

6 Q Did your relationship with Mr. Graham play any role in
7 your decision to ask for a transfer to the Probation
8 Department?

9 A. I would say no. In fact, Mr. Graham left me know not to
10 let Mr. Bolze know that I was interested because they
11 did not have a good relationship. So that was
12 downplayed, the fact I even knew Mr. Graham that well.

13 Q So you downplayed your --

14 A. I didn't mention, you know, I was not coming in saying
15 I'm here because Mr. Graham recommended me. It was none
16 of that.

17 Q And you say you downplayed your relationship with
18 Mr. Graham. Downplayed it to whom?

19 A. Not downplayed it. I -- not to mention to Mr. Bolze
20 that Mr. Graham was -- or Mr. Osenkarski wanted me to
21 come over into that position.

22 Q Did Mr. Graham, in fact, want you to come over to the
23 Probation Department?

24 A. He had spoken to me and Lynn Dickerson about the
25 position, that they needed two probably two females,

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1 probably in the case worker or social work field and,
2 you know, criminal justice, that they thought it was a
3 more of a woman type position because it was social
4 work, and whether I was interested or not.

5 Q And when did that conversation occur, Barb?

6 A. That would probably be while Lynn was there doing her
7 internship.

8 Q 1994? During the summer of 1994 --

9 A. Right.

10 Q -- Mr. Graham and Mr. Osenkarski both advised you that
11 these positions were going to come --

12 A. Yes.

13 Q -- in the Probation Department, correct?

14 A. Yes, that's correct.

15 Q And that they thought it would be an appropriate
16 position for a female?

17 A. Yes.

18 Q Did they tell you why they thought it would be an
19 appropriate position for a female?

20 A. I think because it was social-worky aspect, it's more
21 social work because you're dealing with families, a lot
22 of intensive -- part of the Family Preservation was
23 teaching parents parenting programs, that kind of thing,
24 intensively in the home.

25 Q And there were female probation officers at that time?

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1 A. There was, I believe there was three at that time.

2 Q And in searching for this job they were actively out
3 soliciting you as an interested female in that position,
4 correct?

5 A. I think it was more I approached them. I talked to
6 Mr. Osenkarski about it. Mr. Graham -- I knew they were
7 writing the grant. He had brought Lynn Dickerson down
8 to meet me. And like I said, I already knew Lynn from
9 going to class with her at HACC.

10 Q And this conversation that you've described occurred
11 with each of them? Or the two of them at the same time?

12 A. Possibly both. Probably with both of them at one time
13 and on separate occasions. He would come down and ask
14 me when I was with Children and Youth, which is right
15 down the hall, he would come down and ask for some
16 paperwork of what we used, like maybe the family service
17 plan that we used with Children and Youth, those kind of
18 things, tools, that could be translated into the Family
19 Preservation program.

20 Q When you say he came down the hall, can you identify he
21 for me?

22 A. Mr. Graham.

23 Q How often did he come down the hall to see you and make
24 requests of any type?

25 A. I would say that was only maybe two times. It was

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1 mostly for paperwork.

2 And I know Lynn came down as well, trying to get
3 paperwork from me regarding the Family Preservation
4 program that I had been involved in.

5 Q So as a result of those conversations, you made formal
6 application for the job?

7 A. Yes.

8 Q Did you complete a formal written application?

9 A. No.

10 Q Who did you advise that you were interested in the job?

11 A. Ken Bolze. Chief Ken Bolze.

12 Q Tell me how you got hired.

13 A. I was interviewed by Chief Bolze, John Roller, who was
14 an adult supervisor, and Mr. Osenkarski. And I believe
15 that, by the three gentlemen.

16 Q I gather from the testimony you've given already that
17 Children and Youth and Probation had occasion to work
18 together?

19 A. Absolutely.

20 Q And where were they physically located within the
21 courthouse? Were they close together?

22 A. Yes. We were all on the third floor. The only thing
23 that separated us was a door. We were in what's called
24 the east wing and they were on the main courthouse. So
25 it was a matter of just around the corner and down the

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1 hall.

2 Q So there was a fair amount of interaction and close
3 proximity in terms of physical location, between the two
4 departments?

5 A. Yes.

6 Q Is that fair?

7 A. It was a common lunch room as well.

8 Q What was your understanding of the reputation of
9 Mr. Graham when you were interviewed for this position
10 in late 1994 or early 1995?

11 A. Reputation? I had heard he was a hot head, that he
12 really would get angry quickly. And I was, knew that
13 Mr. Osenkarski and Mr. Graham, either you were in good
14 favor with them or you were basically being punished.
15 And at that point I appeared to be in good favor.

16 Q Why do you say that?

17 A. Because I did -- it seems like they wanted me to come to
18 that position. They were very positive about that.

19 Q And you wanted to go to the position, also?

20 A. Yes, I did.

21 Q And as I understand it, it was because it was within
22 your area of study, which was criminal justice?

23 A. That's correct.

24 Q And also, there was a \$9,000 pay raise or something like
25 that involved, right?

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1 A. Yes.

2 Q Were there any other reasons why you wanted to transfer
3 to the probation?

4 A. As I said, I think it was a whole attitude,
5 Mr. Osenkarski, that it was not a micromanaged. In
6 Children and Youth there was so much meetings, meetings
7 after meetings. It was not so much time out actual in
8 it field as much time as you should be out in the field,
9 where with Probation Mr. Osenkarski left me know that he
10 doesn't micromanage, he depends on his workers to do
11 their job. And to me, that was very interesting because
12 Children and Youth when you first start out you were
13 training, so.

14 Q Did you have any impression from those interviews who
15 you would actually be working with when you were
16 transferred to Probation? If you were accepted for the
17 job.

18 A. Mr. Bolze, of course, was chief. And Mr. Osenkarski
19 was, headed up the juvenile division of the Department
20 at those interviews, the only three people there.

21 Q Was there any discussion about who you would be working
22 for or working with?

23 A. I knew the position would be under Juvenile Probation.
24 It was the grant under the juvenile system.

25 Q And did you know where Mr. Graham was concentrating at

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1 that time?

2 A. Yes. He was in Juvenile Probation.

3 Q Did you have an understanding that if hired, it was
4 likely that he would be the person responsible for
5 training you?

6 A. Yes.

7 Q Did you have any reservations about that?

8 A. No, because I knew Mr. Osenkarski was still his boss.
9 And Chief Bolze, I had a lot of respect for him and I
10 knew he was still overseeing the whole group.

11 Q Based on the reputation that Mr. Graham was a hot head
12 and you were either in favor or out of favor, did that
13 cause you any hesitancy or concerns in terms of
14 accepting the job?

15 A. Maybe a little hesitancy, but like I said, I knew Chief
16 Bolze basically kept them in line.

17 Q When was the job formally offered to you and by whom?

18 A. It was offered to me by Chief Bolze, and exactly when, I
19 don't know. Sometime in January.

20 Q And you then told Children and Youth you would be
21 leaving and moving over to Probation, correct?

22 A. That's correct.

23 Q Who did you understand was ultimately in charge of the
24 Probation Department?

25 A. Chief Bolze. Well, Judge Sheely. Judge Sheely at that

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1 time.

2 Q And why Judge Sheely?

3 A. Because we were officers of the court and he was the
4 president judge.

5 Q And it was your understanding that Judge Sheely then had
6 ultimate authority over the probation officers in that
7 department?

8 A. Yes.

9 Q And Ken Bolze was the chief of the department and he
10 reported to Judge Sheely?

11 A. For, yes, hiring, firing, those kind of things.

12 Q So you took the job, you started there on February 6,
13 1995, correct?

14 A. I believe it was February 7th, 1995.

15 Q And your salary there would have been \$24,868 when you
16 started; does that sound right?

17 A. That sounds correct.

18 Q Describe for me, if you would, what the hierarchy was in
19 terms of management when you got there on February 7th,
20 1995.

21 A. Chief Bolze was the chief. Mr. Osenkarski was a
22 supervisor and mostly in juvenile work. I believe he
23 did split, too, adult and juvenile. And John Roller was
24 more adult than juvenile.

25 Q Where did Mr. Graham fall in the pecking order?

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1 A. Mr. Graham would have been emphasis on juvenile under
2 both John Roller and Chief Bolze, but predominantly
3 working for Mr. Osenkarski.

4 Q Where were you assigned when you first started in
5 February?

6 A. I was assigned to the Family Preservation unit.

7 Q And who did you report to?

8 A. Mr. Graham was my trainer. He's the one that was
9 supposed to be training me how to be a probation
10 officer. Mr. Osenkarski was the supervisor. And
11 ultimately it would be Ken Bolze.

12 Q So the chain of command from you was to Graham,
13 Osenkarski, and Bolze?

14 A. That's correct.

15 Q Did you have any problems with Mr. Graham when you first
16 started to work there in February of 1995?

17 A. No.

18 Q Did you work with him on a daily basis?

19 A. Pretty fairly, yes. Pretty much.

20 Q Did you share an office?

21 A. Yes. Not with -- with who?

22 Q And with whom did you share it?

23 A. I did share an office. I was with Buck McKenrick and
24 Mike Piper.

25 Q What did your training consist of?

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1 A. Writing petitions, the paperwork, the court work. Doing
2 a case from the beginning to end, from intake to
3 deposition -- disposition, I'm sorry, to disposition.
4 Supervising the juveniles, wherever they are.
5 Placement. Paperwork. Basically all the paperwork
6 that's needed to do the job. Time sheets. Mileage
7 sheets.

8 Q How would you describe your relationship with Mr. Graham
9 as your trainer?

10 A. I would describe him as a poor trainer.

11 Q In what way?

12 A. Just getting by with a minimal, just basically whatever
13 you can get away with.

14 Q Give me some examples.

15 A. Supervision, if he would take me out to show me how to
16 supervise, he would pretend to throw a card at
17 somebody's house and say there's a contact, rather than
18 actually doing the face-to-face with the kids. Just
19 basically poor leadership.

20 Q And you say poor leadership, what do you mean by that?

21 A. If you're supposed to learn by example, that was a poor
22 example. That you needed to, in my job as a caseworker
23 at any time I have worked it's important that you see
24 your clients, you do the face-to-face, you take time to
25 know the families. That didn't seem to be relevant to

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1 him. His interest seemed to be in making it, his job
2 convenient for him.

3 That would -- if he's on the way to somewhere he
4 might make a stop someplace on his of personal interest.
5 Like I said, he would pretend to throw cards at the
6 houses and say that would be a contact. That's poor
7 leadership.

8 Q Any other examples of what you would describe as poor
9 leadership or poor training?

10 A. Inconsistent in how he wanted paperwork done, petitions,
11 court paperwork.

12 Q Did you have occasion to discuss what you've described
13 as poor leadership or poor training with either of the
14 other direct reports above you? And by that I mean with
15 either Mr. Osenkarski or Mr. Bolze.

16 A. During that time I also was aware that either you're in
17 favor or you're punished, and I really did not want to
18 fall into the punishment mode. So to question things at
19 that point, just sort of left them ride. And that I
20 learned from other people in our department it was easy
21 to go from one officer to another for training to get
22 information. And I found a lot of other resources. I
23 could learn to do petitions and, you know, social
24 histories from them.

25 Q So I guess the answer is you never complained about

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1 Mr. Graham's leadership or training to anybody?

2 A. At the very beginning, no. In '95, no.

3 Q When did you first complain about any problems with
4 Mr. Graham's leadership or training?

5 A. Whenever I went to Mr. Osenkarski, there was a day that
6 I had taken cases in to Mr. Graham in '96 -- '96, '97.
7 I had taken cases in to him. And I had done everything
8 that was supposed to be done, gotten everything
9 together. And he started screaming at me and said who
10 the F, meaning, do I think I am, making decisions on
11 these cases.

12 When I worked, turned cases in to Mr. Osenkarski, I
13 never had a problem with going ahead and making a
14 decision on what I would recommend for disposition on
15 the juvenile. Suddenly, I had done everything wrong,
16 according to him. He screamed at me, threw me out of
17 his office. And I went to Mr. Osenkarski and I said,
18 you have to get the guy under control. And he said,
19 he's in charge, I put my so many years in with the
20 county and he's in charge.

21 Q When was this?

22 A. It was in '97.

23 Q So from February 1995 when you started until sometime in
24 1997, you never complained about Mr. Graham's leadership
25 or training?

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1 A. Not to him. To other people. Other people agreed with
2 me, other staff members, co-workers.

3 Q But you never went up the chain of command to
4 Mr. Osenkarski prior to 1997?

5 A. Like I said, I sought out other help as far as
6 petitions. He was not -- he was not screaming at me or
7 those kind of things, which happened later on. But I
8 was aware that he was inconsistent.

9 Q We'll come back to that in a minute. But what do you
10 attribute the change of behavior to?

11 A. Whenever Chief Bolze retired and we split adult and
12 juvenile and there was not that person who could
13 basically keep the lid on Mr. Graham, which would have
14 been Chief Bolze. It was now only Mr. Osenkarski.

15 Q Up until the time of Bolze's retirement, you and
16 Mr. Graham had a good relationship?

17 A. Working relationship.

18 Q And would you describe it as no better than a working
19 relationship?

20 A. I would say no better than that, no.

21 Q When did Bolze retire?

22 A. August of '96.

23 Q So from February 1995 until August of 1996 you had no
24 particular problem with Mr. Graham?

25 A. Not with any nasty or yelling at me, no.

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1 Q No screaming?

2 A. No, not at that point.

3 Q No sexual harassment?

4 A. Yes, there was incidents of that, but not of the
5 violence or fear that I had experienced later on.

6 Q We'll talk about the sexual harassment in a minute. But
7 the episode of deterioration in the relationship, at
8 least the screaming or fear as you've described it,
9 didn't materialize until after August of 1996?

10 A. Until after Chief Bolze had retired.

11 Q At that point you had been working with him for a year
12 and a half, or approximately that long, correct?

13 A. That's correct.

14 Q And had had no episodes of him losing his temper with
15 you or screaming at you?

16 A. Not at me. With other people, but not at me.

17 Q Had he been complimentary of your work for that year and
18 a half?

19 A. Chief Osenkarski at times was, but Graham, no.

20 Q Who was responsible for doing reviews on you?

21 A. Mr. Osenkarski and Mr. Graham signed as well.

22 Q Did you receive unfavorable reviews during the 18 months
23 from February '95 until August of '96?

24 A. Initially Ken Bolze, when he was there he was also
25 involved in evaluations, and they were fine. I had no

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1 problems with my evaluations.

2 Q At any time?

3 A. No.

4 Q Was there any particular event or happening that
5 occurred as best you understand it in August of '96 that
6 caused Mr. Graham to suddenly start screaming at you?

7 A. I think he had free reign. Mr. Osenkarski took a back
8 seat and turned everything over to Mr. Graham.

9 Q But there was no specific event? Other than the
10 retirement of Chief Bolze.

11 A. It was a slow progression. Slow progression that you
12 could see the power and the authority he was just
13 gaining, gaining the power, and you could feel that. He
14 was angry most of the time.

15 Q What was he angry about?

16 A. It could be basically anything that I did.

17 Q And when did that start?

18 A. That would be after Chief Bolze retired.

19 Q After August of '96?

20 A. Yes. Things that I had done right one time, that were
21 acceptable, now were wrong.

22 Q Give me some examples of those things.

23 A. Could be the way you do petitions. He just -- suddenly
24 the wording wasn't right. No matter what I did, it was
25 wrong. He didn't want me --